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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/947,546	10/11/97	MCDERMOTT K	

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MM31/0401

EXAMINER  
T.S.U.L

ART UNIT 2875	PAPER NUMBER
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DATE MAILED: 04/01/99

#8

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/947,546

Applicant(s)

McDermott

Examiner

TSO

Group Art Unit

2875

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 2/16/99 & 8/11/98 (Election & Pre Ampt A)
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 2-45 is/are pending in the application.
- Of the above claim(s) 42-44 is/are withdrawn from consideration.
- ☒ Claim(s) 20-41 is/are allowed.
- ☒ Claim(s) 2-19 and 45 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☒ Notice of Reference(s) Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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### **DETAILED ACTION**

1. Applicant's election without traverse of Group I in Paper No. 7 is acknowledged.
2. Claims 42-44 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "60" has been used to designate two different elements in figure 25. Note also reference character "22" in figures 3 and 23. Correction of these and all similar errors is required.

### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
5. The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

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6. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2-19 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, to increase clarity, "said contacts" should be --said power supply--.

Claims 7 and 8 are unclear. The angle [line 4, both claims] is unclear.

In claim 45, "said actuator" [line 12] has no antecedent basis.

Claims 3-6 and 9-19 depend from indefinite claim 2.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 2, 3, 13 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Uke (4,985,812).

Uke discloses a flashlight having a lamp [100], a switch, a power supply [58, 60, 62, 64] and a case [12]. An activator [132], rotatably connected to the case [figure 3] and disposed about a movable element [142] which has an "off" [figure 4] and "on" position [figure 5]. Note O-ring [36] and shaft [144].

*Allowable Subject Matter*

11. Claims 4-12 and 14-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claim 45 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

13. Claims 20-41 are allowed.

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*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the following patents: Nilssen - figure 1; Ellion - figure 22; Maglica - figure 2; Flores - figure 3.

15. Any inquiry concerning this communication should be directed to the Examiner at the below-listed number on Mon-Fri, 0630 to 1500, EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Sandra O'Shea, can be reached on 703 305 4939. The fax numbers for this Technology Center 2800 are 703 305 3432 and 703 308 7722.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703 308 1782, Mon-Fri, 0830 to 1700, EST.

By: \_\_\_\_\_

LAURA TSO  
Primary Examiner  
703 305 1672